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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
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EXAMINER

STAICOVICI, STEFAN

| | |
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| ART UNIT | PAPER NUMBER |
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1732

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,439

Applicant(s)

QASHOU ET AL.

Examiner

Stefan Staicovici

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicants' amendment filed October 17, 2005 have been entered. Claims 1-6 are pending in the instant application.

Election/Restrictions

2. Applicant's election of Group II in the reply filed on October 17, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Objections

3. Claim 6 is objected to because of the following informalities: claim 6 is dependent from "the method of claim 5," but claim 5 recites a product, specifically a dual performance wipe. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1732

5. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brock *et al.* (US Patent No. 4,041,203) in view of Albacarys *et al.* (US Patent No. 6,338,855).

Brock *et al.* ('203) teach the basic claimed nonwoven laminate (10) (wipe) having a first nonwoven layer (12) of thermoplastic polymeric microfibers (14) having a diameter of about 10 microns and a second layer (16) of randomly oriented thermoplastic filaments (18) having a diameter of about 12-55 microns (see col. 1, line 67 through col. 2, line 67 and col. 3, lines 3-10).

Regarding claims 4-5, although Brock *et al.* ('203) teach a two-layered non-woven laminate, Brock *et al.* ('203) do not teach an absorbent side and an abrasive side. Albacarys *et al.* ('855) teach a two-layered laminate having an abrasive side and an absorbent side (see col. 8, lines 47-61). Therefore, it would have been obvious for one of ordinary skill in the art to have provided an absorbent side and an abrasive side as taught by Albacarys *et al.* ('855) to the non-woven laminate of Brock *et al.* ('203) because, Albacarys *et al.* ('855) specifically teach that a two-layered laminate having an abrasive side and an absorbent side provides for an improved laminate because of increased functionality by having an abrasive side for exfoliation and a softer side for gentle cleansing.

In regard to claim 6, Brock *et al.* ('203) do not teach a cleansing agent. Albacarys *et al.* ('855) teach a two-layered laminate having a cleansing agent (see col. 3, lines 41-49). Therefore, it would have been obvious for one of ordinary skill in the art to have provided a cleansing agent as taught by Albacarys *et al.* ('855) to the laminate (wipe) of Brock *et al.* ('203) because, Albacarys *et al.* ('855) teach that cleansing agent provides for an improved product by providing effective cleansing with less irritation and superior delivery of skin care actives.

Art Unit: 1732

6. Claims 4 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Derwent Abstract 1991-073939 in view of Brock *et al.* (US Patent No. 4,041,203).

Derwent Abstract 1991-073939 teaches the basic claimed laminate having an abrasive side (12) and an absorbent side (16), said abrasive side being a non-woven web of fiber material (see Abstract).

Regarding claims 4 and 5, although Derwent Abstract 1991-073939 teaches a non-woven web of fiber material, Derwent Abstract 1991-073939 does not teach fibers having a diameter of about 5-50 microns. Brock *et al.* ('203) teach a nonwoven laminate (10) (wipe) having a first nonwoven layer (12) of thermoplastic polymeric microfibers (14) having a diameter of about 10 microns and a second layer (16) of randomly oriented thermoplastic filaments (18) having a diameter of about 12-55 microns (see col. 1, line 67 through col. 2, line 67 and col. 3, lines 3-10). Therefore, it would have been obvious for one of ordinary skill in the art to have provided polymeric filaments having a diameter of about 12-55 microns as taught by Brock *et al.* ('203) to the non-woven web of fiber material of Derwent Abstract 1991-073939 because, Brock *et al.* ('203) teach that such filaments provide for increased tenacity, hence providing for an improved product and also because the invention of Derwent Abstract 1991-073939 requires a non-woven web of fiber material in order to function as described, whereas Brock *et al.* ('203) teach that a non-woven mat is formed by collecting thermoplastic filaments having a diameter of about 12-55 microns.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Derwent Abstract 1991-073939 in view of Brock *et al.* (US Patent No. 4,041,203) and in further view of Albacarys *et al.* (US Patent No. 6,338,855).

Derwent Abstract 1991-073939 in view of Brock *et al.* ('203) teaches the basic claimed process as describe above.

Regarding claim 6, Derwent Abstract 1991-073939 in view of Brock *et al.* ('203) does not teach a cleansing agent. Albacarys *et al.* ('855) teach a two-layered laminate having a cleansing agent (see col. 3, lines 41-49). Therefore, it would have been obvious for one of ordinary skill in the art to have provided a cleansing agent as taught by Albacarys *et al.* ('855) to the laminate (wipe) of Derwent Abstract 1991-073939 in view of Brock *et al.* ('203) because, Albacarys *et al.* ('855) teach that a cleansing agent provides for an improved product by providing effective cleansing with less irritation and superior delivery of skin care actives.

Response to Arguments

8. Applicants' arguments filed October 17, 2005 have been considered.

9. Applicants argue that neither Brock *et al.* ('203) nor Albacarys *et al.* ('855) "teach or suggest *hydroentanglement*, in accordance with the present invention, and neither teach or suggest imparting an image or pattern by use of a three-dimensional image transfer device" (see page 8 of the amendment filed 10/17/2005). Further, Applicants argue that in Derwent Abstract 1991-073939 "there is no teaching or suggestion of forming an integrated dual performance laminate by hydroentanglement, much less any teaching of effecting hydroentanglement in association with a three-dimensional image transfer device" (see page 9 of the amendment filed 10/17/2005). In response, it is noted that under MPEP § 2113, "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of

Art Unit: 1732

production.” Hence, the patentability of the instant claimed dual performance non-woven laminate does not depend on its method of production, specifically on the argued hydroentanglement process.

10. In response to applicant's argument that the references fail to show a dual performance non-woven laminate having a image printed/transferred thereon, it is noted that such a feature is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1732


Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD


12/27/05

Primary Examiner

AU 1732

December 27, 2005